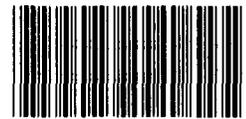


July 1990

UNDERGROUND PETROLEUM TANKS

Owners' Ability to Comply With EPA's Financial Responsibility Requirements



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Resources, Community, and
Economic Development Division

B-239333

July 9, 1990

The Honorable Max Baucus
Chairman, Subcommittee on
Environmental Protection
Committee on Environment
and Public Works
United States Senate

The Honorable John Chafee
Ranking Minority Member, Committee
on Environment and Public Works
United States Senate

On February 20, 1990, we testified before the Subcommittee on the ability of owners of underground petroleum storage tanks to comply with the Environmental Protection Agency's (EPA) financial responsibility requirements. We supplemented our testimony in a briefing for Subcommittee staff on February 26, 1990, and agreed at that time to provide the Subcommittee with this fact sheet. The fact sheet summarizes information obtained from telephone surveys of state officials and insurance companies, which we conducted in February and March 1990.

According to EPA, hundreds of thousands of the nation's 2 million underground tanks have corroded and are leaking. Leaks from these tanks can contaminate groundwater--a source of drinking water for half of our nation--and cause fires or explosions. To ensure that tank owners are able to pay to clean up leaks from tanks and compensate victims for damages caused by leaking tanks, EPA's regulations require that tank owners have \$1 million or \$2 million worth of insurance or demonstrate financial responsibility by some other approved method, such as coverage under special state trust funds.

EPA's regulations divide tank owners into four categories based mainly on the number of the tanks they own. Categories 1 and 2 include large to medium-sized firms owning 100 or more tanks. Owners in these categories had to comply with EPA's financial responsibility requirements by January and October 1989, respectively. Category 3 includes owners of 13 to 99 tanks, and category 4 is made up of owners of 1 to 12 tanks and most non-marketers--owners who do not market petroleum products and who have a tangible net

worth of less than \$20 million.¹ Under EPA's original regulations category-3 and -4 owners had to comply by April and October 1990, respectively. However, on March 14, 1990, EPA announced that it would amend its regulations to extend by 1 year the compliance deadlines for firms in categories 3 and 4. On April 25, 1990, the EPA Administrator signed an interim rule to formalize the 1-year extension for category-3 firms. Our work focused on the ability of category-3 and -4 firms to comply with EPA's financial responsibility requirements and on the coverage provided to them by insurers.

As of May 2, 1990, 36 states had created trust funds to pay for cleanups and, in many cases, compensate victims of leaks from underground petroleum storage tanks. EPA must approve these trust funds before owners can use them to satisfy federal financial responsibility regulations. However, EPA approves the trust funds conditionally as soon as states submit plans for review. As of May 2, 1990, 23 states had submitted fund plans for EPA's review. EPA had formally approved 11 funds after review and conditionally approved 12 others pending review. Most of the states that have not submitted fund plans for approval so far intend to do so.

To obtain information regarding category-3 and -4 tank owners' ability to meet EPA's financial responsibility requirements, we conducted telephone surveys between February 12 and March 28, 1990. We were able to contact 46 state underground storage tank program officials to ask whether tank insurance is available in their states and whether category-3 and -4 owners can obtain it.² We also asked them about state programs to help owners meet the financial responsibility and/or technical requirements and about lending institutions' attitudes towards providing loans to owners. We collected information from insurance company representatives on the number and terms of policies

¹Non-marketers who have a tangible net worth of more than \$20 million are included in category 1. EPA defines "tangible net worth" as the value of assets less liabilities and such intangible assets as rights to patents or royalties.

²We spoke with officials in 45 states and the District of Columbia. In this fact sheet, references to states include the District of Columbia. We were unable to reach officials from five states within the time available for our survey.

issued to tank owners and the effect that lower coverage requirements might have on premiums. Details on the objectives, scope, and methodology are contained in appendix I.

RESULTS OF OUR SURVEYS

State Officials

According to most state officials, tank insurance is being offered for sale in their states. Only the Oklahoma, Tennessee, and Mississippi state officials reported that no insurance companies offer pollution liability insurance to category-3 and -4 tank owners in their states. Four other state officials reported that insurance is virtually unavailable to category-3 and/or category-4 owners in their states for one or more of the following reasons: the high cost of insurance premiums; the inability of owners to meet technical requirements for obtaining insurance; and insurance companies' unwillingness to underwrite insurance for category-3 and -4 owners. Nevertheless, of the officials who provided an estimate, one-third said that more than half of the category-3 businesses would not have been able to obtain insurance by the April 1990 compliance deadline; 74 percent said that more than half of the category-4 firms would not have been able to obtain insurance by the October 1990 deadline. These officials frequently attributed this situation to costly private tank insurance and owners' having old, high-risk tanks.

Nearly one-third of the state officials believe that more than half of the category-3 owners would not have been able to comply with the financial requirements by the April 1990 deadline. More than two-thirds of the officials believe that more than half of the category-4 owners would not have complied by the October 1990 deadline. Even in states with trust funds, officials were not very optimistic about category-3 and -4 owners' compliance. Nearly one-third of the officials in these states said that more than half of the category-3 firms would not have been able to comply by the April 1990 deadline. The majority of the officials in these states said that more than half of the category-4 firms would not have been able to comply by the October 1990 deadline.

The majority of officials in the states with trust funds with whom we spoke said that their states are not planning to establish financial assistance programs that would

provide, for instance, direct loans or loan guarantees to assist small business owners to upgrade or replace tanks. However, in the majority of states with no trust funds, state officials said that their states are planning to establish or have already implemented such programs.

We asked state officials about the lending practices of financial institutions in their states towards category-3 and -4 owners. Most state officials who provided an opinion indicated that lending institutions in their states are cautious or reluctant to make loans to category-3 and -4 owners; several officials cited lending institutions' concerns about liability as a reason for the hesitancy.

Insurance Representatives

We were able to identify 11 insurance companies that offer full coverage, that is, coverage for corrective action plus third-party liability costs, to category-3 and -4 owners. We have not included information on 1 of the 11 companies because it did not respond to our survey in time to be included in our summary of insurance companies. Of the 10 insurers included in our summary, 3 account for more than 90 percent of the approximately 3,400 policies issued nationally to these owners of smaller firms. The two largest providers, Federated Mutual Insurance Company (Federated) and the Petroleum Marketers Mutual Insurance Company (Petromark),³ have issued the greatest number of policies to category-3 and -4 tank owners, issuing 1,800 and 1,000 policies, respectively. Two companies have issued 10 or fewer policies, and three companies have issued no policies. Based on information from insurance company representatives who responded to our questions, average policy premiums per tank ranged from \$800 to \$1,600 for category-3 and -4 firms; average site premiums ranged from \$1,600 to \$19,000; minimum policy premiums ranged from

³On April 10, 1990, Petromark announced that it was unable to raise \$18 million in capital by April 9, 1990, as required by the State of Tennessee, and, as a result, Petromark dissolved its Board of Directors. Petromark also notified its customers that those who were actively insured at that time would be able to obtain insurance from Lloyds of London. On May 3, 1990, the State of Tennessee placed Petromark into liquidation.

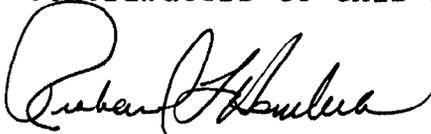
\$1,300 to \$5,000; and minimum deductibles ranged from \$0 to \$25,000 for category-3 and -4 firms. Typically, insurance company representatives responded that they assess each owner's application to arrive at an individualized insurance rate.

When we asked if premiums would decrease if EPA would lower its coverage limit below the currently required \$1 million per occurrence, two of the seven company representatives who answered the question said that premiums would only decrease slightly and one said premiums would decrease but did not estimate how much. Four company representatives said premiums would not decrease. Of the seven representatives, four stated that most of the risk falls below \$500,000. Based on insurance representatives' responses, it appears that EPA would have to lower its limits below \$500,000 in order to reduce insureds' premiums.

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Section 1 presents background information on EPA's financial responsibility requirements. Section 2 presents state underground storage tank program officials' responses to our questions regarding category-3 and -4 owners' ability to comply with EPA's requirements. Section 3 presents information obtained from the companies that provide pollution liability insurance.

As agreed with the Subcommittee staff, we did not obtain official agency comments on this fact sheet. Unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 30 days from the date of this letter. At that time, we will send copies to the Administrator, Environmental Protection Agency, and make them available to other interested parties. If you have any questions, please contact me on (202) 275-6111. Major contributors to this fact sheet are listed in appendix II.



Richard L. Hembra
Director, Environmental Protection
Issues

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ABBREVIATIONS

AIG	American International Group Insurance Company
EPA	Environmental Protection Agency
GAO	General Accounting Office

SECTION 1

BACKGROUND

The Environmental Protection Agency (EPA) estimates that nationwide there are up to 2 million underground petroleum storage tanks at three-quarters of a million facilities, such as gas stations, utility companies, or car dealerships. According to EPA, hundreds of thousands of these tanks have corroded and are leaking. Leaks from these tanks can contaminate groundwater--a source of drinking water for half of our nation--and can cause fires or explosions. To guard against such risks, the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act required EPA to develop regulations to prevent, detect, and correct leaks from tanks. EPA published final tank safety regulations in the Federal Register on September 23, 1988. The regulations require tank owners to use certain methods to detect leaks, beginning at specified dates in 1989 through 1993, depending on the age of the tanks. Owners have until 1998 to meet other requirements for preventing leaks, such as having tank corrosion protection.¹

EPA also published financial responsibility regulations on October 26, 1988, requiring owners of underground petroleum tanks, with some exceptions, to demonstrate the financial ability to pay \$1 million or \$2 million, per occurrence, depending on the number of tanks they own, to clean up leaks and compensate victims. In the regulations, EPA grouped firms into four categories and phased in the financial responsibility requirements over fiscal years 1989 and 1991. Firms in categories 1 and 2--large to medium-sized firms generally owning 100 or more tanks--had to comply by January and October 1989, respectively. Category 3 includes owners of 13 to 99 tanks, and category 4 is made up of owners of 1 to 12 tanks and most non-marketers.² Under the original regulations these owners had until April and October 1990 to comply. However, on March 14, 1990, EPA announced that it would amend the regulations to extend

¹The requirements can be satisfied by either the owners or operators of the tanks. For convenience, we refer only to tank owners in this fact sheet.

²Non-marketers are owners who do not market petroleum products and, in category 4, who have a net worth of less than \$20 million. Non-marketers having a net worth of more than \$20 million are classified as category-1 owners. Non-marketers include such entities as local governments, auto dealerships, and hospitals.

by 1 year the compliance deadlines for categories 3 and 4,³ and on April 25, 1990, the EPA Administrator signed an interim rule to formalize the extension for category-3 firms. According to an EPA official, the interim rule for category-4 firms is undergoing review and will be signed by the end of June 1990.

Owners can show financial responsibility by obtaining one or a combination of the following: (1) self-insurance; (2) pollution liability insurance; (3) guarantees, surety bonds, or letters of credit ensuring their ability to pay; (4) coverage under state-required mechanisms or state trust funds approved by EPA for this purpose; or (5) an owner-established trust fund. Large firms can generally meet the requirements through self-insurance, but for smaller firms the only feasible methods for demonstrating financial responsibility are to purchase insurance or obtain coverage under a state trust fund. Methods other than private insurance or state trust funds (1) are expensive for smaller firms, (2) do not transfer risk, or (3) require that more assets be pledged than the average owner typically can afford. Owners can use coverage under a state trust fund to demonstrate financial responsibility only if EPA has approved the fund. If the plan submitted to EPA shows that the fund meets the requirements, the agency classifies the fund as formally approved. If the state has submitted a fund plan and EPA has yet to review it, EPA classifies the fund as conditionally approved.

In January 1988 we reported that uncertainty about potential losses had kept insurance companies out of the underground tank market.⁴ In the 3 years prior to our report, two sources provided virtually all of the tank insurance sold in the United States, and midway through 1987, one of them had withdrawn from the market. The two firms had insured about 14 percent of U.S. tanks, mostly those owned by firms in the retail motor fuels sector such as independent gasoline stations. At the time of this review, relatively few states had established trust funds to clean up leaks from tanks, although we said that these funds might be the only hope for small firms to establish financial responsibility.

³GAO had suggested this action in testimony on Feb. 20, 1990, before the Subcommittee on Environmental Protection, Senate Committee on Environment and Public Works, Underground Petroleum Storage Tank Owners' Ability to Comply With Federal Financial Responsibility Requirements (GAO/T-RCED-90-29).

⁴Superfund: Insuring Underground Petroleum Tanks (GAO/RCED-88-39, Jan. 15, 1988).

SECTION 2

STATE OFFICIALS' PERSPECTIVES REGARDING CATEGORY-3 AND -4 OWNERS' ABILITY TO COMPLY WITH EPA'S FINANCIAL REQUIREMENTS

We conducted a telephone survey of state underground storage tank program officials in all 50 states and the District of Columbia to obtain their perspectives regarding the ability of category-3 and -4 firms to obtain insurance by the 1990 deadlines or comply with the requirements through state trust funds. Additionally, we asked officials if their states have any plans to offer financial assistance to owners to help them comply with the requirements and how lending institutions in their states deal with owners seeking loans to upgrade tanks. This section summarizes the views of the 46 state program officials we were able to contact.¹ We did not verify the accuracy of the information the state officials provided to us.

STATUS OF CREATION OF TRUST FUNDS

According to EPA, as of May 2, 1990, 36 states had created trust funds and 15 states had not. Of the 36 states that had created funds, EPA had formally approved 11 fund plans and conditionally approved 12, and 13 states had not yet submitted their fund plans to EPA for approval. Table 2.1 shows which states had created trust funds and which had not, indicates which states had trust funds that EPA had formally and conditionally approved, and identifies which states had not submitted fund plans to EPA for approval. In addition, the table notes changes to the status of state fund plans that have occurred since we conducted our survey.

¹The group of state program officials includes an official from the District of Columbia government. In this fact sheet, references to states include the District of Columbia.

Table 2.1
Thirty-six States With a Trust Fund
and 15 Without a Trust Fund,
as of May 2, 1990

<u>States with a trust fund (36)</u>		
<u>Plan submitted to EPA (23)</u>	<u>Plan not submitted to EPA (13)</u>	
<u>Approved</u>	<u>Conditionally</u>	<u>Approved</u>
Alabama ^a	Arkansas ^c	California
Georgia	Connecticut	Colorado ^d
Illinois ^b	Florida	Idaho ^e
Iowa	Kansas	Indiana ^e
Louisiana ^b	Nebraska	Missouri
Michigan ^b	North Dakota	Nevada
Minnesota ^b	Ohio	New Hampshire ^d
Mississippi	Oklahoma	New Mexico
Montana ^b	South Carolina	Pennsylvania
North	Tennessee	South Dakota
Carolina ^b	Texas	Virginia ^a
Vermont ^b	Utah ^c	Wisconsin ^d
		Wyoming

<u>States without a trust fund (15)</u>		
Alaska	Kentucky	Oregon
Arizona	Maine	Rhode Island
Delaware	Maryland ^a	Washington
District of	Massachusetts ^a	West Virginia
Columbia	New Jersey ^a	
Hawaii	New York	

^aWe were unable to administer our telephone survey to this state.

^bAfter we conducted our survey, this state had its trust fund plan formally approved by EPA.

^cAfter we conducted our survey, this state submitted its fund plan to EPA for approval.

^dAlthough an EPA report indicated that this state had submitted a fund plan to EPA, according to EPA regional officials, this state has not officially submitted a trust fund plan to EPA.

^eAfter we conducted our survey, this state's legislature created a trust fund.

At the time of our telephone survey, conducted between February 12, 1990, and March 2, 1990, we interviewed officials from 23 states that had submitted plans to EPA for approval, 9 states that had not submitted plans, and 14 states that had no state trust funds; we were not able to administer our survey to officials in 5 states.

We were able to contact 9 of the 10 states that had created trust funds but not submitted fund plans for EPA approval. Officials of seven of these nine states said that they intend to submit their state trust fund plans to EPA for approval. One official said that the state might submit its plan to EPA, depending on the fund's ability to meet financial assurance requirements in the state. The other state official indicated, however, that the state will not be able to operate a trust fund unless additional state funds become available.

Of the 17 states without trust funds, we were able to contact 14. Of these 14 states, 9 had plans to establish funds. Six of these nine states indicated that their proposed funds were under legislative review. Of the five states that did not have plans to establish trust funds meeting EPA's requirements, four indicated that their states have other forms of assistance for tank owners.² One state official we spoke with indicated that officials in the state disagree with the idea of establishing a trust fund to help owners meet EPA's financial responsibility requirements; he suggested that the federal government should fund such an effort because the federal requirements place an added economic burden on small business owners in the state.

AVAILABILITY OF PRIVATE TANK INSURANCE

Most state program officials indicated that insurance is available, that is, is being offered for sale, to category-3 and -4 owners. At the time of our review, seven officials said that insurance is unavailable or virtually unavailable to category-3 and/or -4 owners in their states.

The Oregon and Vermont officials reported that insurance is virtually unavailable for sale to category-4 owners in their states because insurance companies are not willing to underwrite policies for these owners. The Texas and Pennsylvania state officials reported that insurance is virtually unavailable for sale

²When we interviewed the Indiana state official, he said that the state was not planning to create a trust fund. However, according to an EPA regional official, the Indiana state legislature passed legislation creating a state trust fund, which the governor signed on March 20, 1990.

to category-3 and/or -4 owners in their states because insurance is costly or some owners cannot afford to meet technical requirements. The Texas state official indicated that insurance is virtually unavailable for sale to category-4 owners in the state, as the one insurance company that offers selective coverage charges these owners a \$45,000 premium. The Pennsylvania state official said that insurance premiums for category-3 owners have increased about 140 percent over the past few years. Regarding category-4 owners, the state official said that these owners cannot afford to (1) meet technical requirements or (2) purchase private tank insurance.

Only the Oklahoma, Tennessee, and Mississippi officials said that no insurance companies offer pollution liability coverage to tank owners in their states. The Oklahoma state official said that he has found no insurance company willing to underwrite policies for category-3 and -4 owners, including non-marketers, in the state.

The Tennessee state official explained that only two companies had offered insurance in the state, the Petroleum Marketers Mutual Insurance Company (Petromark) and the Federated Mutual Insurance Company (Federated), the nation's two largest providers, and they are no longer doing so.³ The Mississippi official also cited Federated's withdrawal as the reason for the unavailability of tank insurance in the state.

While most state officials said that private tank insurance is generally available and that insurance companies are underwriting tank coverage, one-third of the officials who responded said that more than half or most of the category-3 businesses would not have been able to obtain insurance by the compliance deadline, as shown in table 2.2. Seventy-four percent of state program officials who responded said that more than half or most of the category-4 businesses would not have been able to obtain insurance by the compliance deadline, as reflected in table 2.3. These officials frequently cited as reasons the high cost of private tank insurance and owners' having old tanks that pose high risk.

³On April 10, 1990, Petromark announced that it was unable to raise \$18 million in capital to maintain operations, as required by the State of Tennessee. Consequently, Petromark dissolved its Board of Directors, and Lloyds of London agreed to provide coverage to most of Petromark's insureds. Most recently, on May 3, 1990, the State of Tennessee placed Petromark into liquidation.

Table 2.2
Ability of Category-3 Owners to Obtain Insurance

To what extent do you think category-3 businesses in your state will be able to obtain insurance by the April 1990 deadline?

<u>Response</u>	<u>No. of state officials, by trust fund status</u>			<u>Total</u>
	<u>Fund plan submitted to EPA</u>	<u>Fund plan not submitted to EPA</u>	<u>No fund</u>	
Most will	3	2	4	9
More than half will	3	2	1	6
About half will	7	0	3	10
Fewer than half will	3	3	3	9
Most will not	2	1	2	5
Don't know	2	0	1	3
Not applicable ^a	<u>3</u>	<u>1</u>	<u>0</u>	<u>4</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

^aState officials responded that insurance is not available to category-3 owners in their states. As a result, these officials did not comment on this question.

Table 2.3
Ability of Category-4 Owners to Obtain Insurance

To what extent do you think category-4 businesses in your state will be able to obtain insurance by the October 1990 deadline?

<u>Response</u>	<u>No. of state officials, by trust fund status</u>			<u>Total</u>
	<u>Fund plan submitted to EPA</u>	<u>Fund plan not submitted to EPA</u>	<u>No fund</u>	
Most will	2	1	1	4
More than half will	1	1	0	2
About half will	0	0	1	1
Fewer than half will	5	2	6	13
Most will not	8	3	4	15
Don't know	2	0	1	3
Not applicable ^a	5	1	1	7
No answer	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

^aState officials responded that insurance is not available to category-4 owners in their states. As a result, these officials did not comment on this question.

OWNERS' ABILITY TO COMPLY WITH FINANCIAL
RESPONSIBILITY REQUIREMENTS BY
EPA DEADLINES

As tables 2.4 and 2.5 show, nearly one-third of the state officials said that more than half or most of the category-3 firms would not have been able to comply with the financial responsibility requirements by the April 1990 deadline, and more than two-thirds of the officials indicated that more than half or most of the category-4 firms would not have been able to comply with the October 1990 deadline. Officials most frequently cited (1) high trust fund deductibles (for states with funds); (2) costly insurance; (3) old, high-risk tanks; and (4) technical requirements such as those necessitating costly tank improvements as reasons for these owners' inability to comply.

Tables 2.4 and 2.5 also show that officials we contacted in states with trust funds were not very optimistic about category-3 and -4 owners' complying with the financial responsibility requirement deadlines. Officials in 10 of 32 states, or about 31 percent, said that more than half of the category-3 firms would not have been able to comply by April 1990. Also, officials in 18 of 32 states, or about 56 percent, said that more than half of the

category-4 firms would not have been able to comply by October 1990.

Table 2.4
Ability of Category-3 Owners to Comply With
Financial Requirements by EPA's Deadline

How many category-3 firms in your state will comply with the financial requirements by April 1990?

<u>Response</u>	<u>No. of state officials,</u> <u>by trust fund status</u>			<u>Total</u>
	<u>Fund plan</u> <u>submitted</u> <u>to EPA</u>	<u>Fund plan</u> <u>not</u> <u>submitted</u> <u>to EPA</u>	<u>No</u> <u>fund</u>	
Most will	12	1	4	17
More than half will	1	1	2	4
About half will	5	2	4	11
Fewer than half will	3	3	3	9
Most will not	<u>2</u>	<u>2</u>	<u>1</u>	<u>5</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

Table 2.5
Ability of Category-4 Owners to Comply With
Financial Requirements by EPA's Deadline

How many category-4 firms in your state will comply with the financial requirements by October 1990?

<u>Response</u>	<u>No. of state officials,</u> <u>by trust fund status</u>			<u>Total</u>
	<u>Fund plan</u> <u>submitted</u> <u>to EPA</u>	<u>Fund plan</u> <u>not</u> <u>submitted</u> <u>to EPA</u>	<u>No</u> <u>fund</u>	
Most will	7	0	1	8
More than half will	3	1	0	4
About half will	3	0	0	3
Fewer than half will	5	2	9	16
Most will not	<u>5</u>	<u>6</u>	<u>4</u>	<u>15</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

We also asked state officials if they believe category-2 firms--medium-sized businesses with 100 to 999 tanks--in their states had complied with EPA's financial responsibility requirements. As shown in table 2.6, the majority of the officials said they believe that category-2 owners had complied.⁴

⁴We did not ask about compliance by category-1 owners because they have assets enabling them to self-insure.

Table 2.6
Category-2 Owners' Compliance With
Financial Requirements

In your estimation, have category-2 firms in your state complied with EPA's financial responsibility requirements?

<u>Response</u>	<u>No. of state officials,</u> <u>by trust fund status</u>			<u>Total</u>
	<u>Fund plan</u> <u>submitted</u> <u>to EPA</u>	<u>Fund plan</u> <u>not</u> <u>submitted</u> <u>to EPA</u>	<u>No</u> <u>fund</u>	
Yes	17	5	12	34
No	0	1	0	1
Don't know	6	2	2	10
No answer	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

STATES PLANNING TO PROVIDE OR PROVIDING
FINANCIAL ASSISTANCE TO TANK OWNERS

As shown in table 2.7, our discussions with state officials revealed that some states have established, or plan to establish, additional mechanisms to assist tank owners in meeting financial responsibilities and/or technical requirements. Overall, one-third of the states we spoke with have plans to establish or have established such assistance programs. The most common types of assistance being considered are direct loans, loan guarantees, and interest subsidies. Specifically, officials in 9 of the 14 states without trust funds, or about 64 percent, said that their states are planning to establish or have already established assistance programs to help owners upgrade or replace tanks. Yet officials in 26 of the 32 states with trust funds, or about 81 percent, said that their states are not planning to establish such financial assistance programs.

Table 2.7
Other Financial/Technical Assistance
Planned or Offered by States

Do you have other plans to offer assistance to owners who have trouble meeting financial responsibilities and/or technical requirements?

<u>Response</u>	<u>No. of state officials,</u> <u>by trust fund status</u>			<u>No</u> <u>fund</u>	<u>Total</u>
	<u>Fund plan</u> <u>submitted</u> <u>to EPA</u>	<u>Fund</u> <u>plan not</u> <u>submitted</u> <u>to EPA</u>			
Yes	4	2		9	15
No	<u>19</u>	<u>7</u>		<u>5</u>	<u>31</u>
Total	<u>23</u>	<u>9</u>		<u>14</u>	<u>46</u>

WILLINGNESS OF LENDING INSTITUTIONS TO
MAKE LOANS TO OWNERS TO UPGRADE TANKS

Tables 2.8 and 2.9 present respondents' views regarding lending institutions' willingness to provide loans to owners for upgrading tanks so that they can become eligible for insurance or state fund coverage. Most of the officials who expressed an opinion said that lending institutions in their states are cautious or reluctant to make loans to both category-3 and -4 owners; the officials most frequently cited lending institutions' concerns about liability as the reason for the institutions' hesitancy.

Table 2.8
State Officials' Views of Lending Institutions' Willingness
to Make Loans to Category-3 Owners for Upgrading Tanks

How do lending institutions in your state feel about making loans to category-3 tank owners for upgrading tanks to become eligible for insurance?

<u>Response</u>	<u>No. of state officials,</u> <u>by trust fund status</u>			<u>Total</u>
	<u>Fund plan</u> <u>submitted</u> <u>to EPA</u>	<u>Fund</u> <u>plan not</u> <u>submitted</u> <u>to EPA</u>	<u>No</u> <u>fund</u>	
Cautious/reluctant	9	7	4	20
No problem	4	1	3	8
Don't know	7	1	6	14
No answer	<u>3</u>	<u>0</u>	<u>1</u>	<u>4</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

Table 2.9
State Officials' Views of Lending Institutions' Willingness
to Make Loans to Category-4 Owners for Upgrading Tanks

How do lending institutions in your state feel about making loans to category-4 tank owners for upgrading tanks to become eligible for insurance?

<u>Response</u>	<u>No. of state officials,</u> <u>by trust fund status</u>			<u>Total</u>
	<u>Fund plan</u> <u>submitted</u> <u>to EPA</u>	<u>Fund</u> <u>plan not</u> <u>submitted</u> <u>to EPA</u>	<u>No</u> <u>fund</u>	
Cautious/reluctant	10	8	4	22
No problem	2	0	2	4
Don't know	8	1	6	15
No answer	<u>3</u>	<u>0</u>	<u>2</u>	<u>5</u>
Total	<u>23</u>	<u>9</u>	<u>14</u>	<u>46</u>

SECTION 3

EXTENT OF POLLUTION LIABILITY INSURANCE COVERAGE AND INSURANCE COMPANIES' VIEWS OF OWNERS' ABILITY TO COMPLY WITH EPA'S FINANCIAL REQUIREMENTS

We identified 11 insurance companies that offer full-coverage pollution liability insurance to category-3 and -4 owners¹ and 4 more companies that offer limited pollution liability insurance to these smaller firms. We have not included information on 1 of the 11 companies because it did not respond to our survey in time to be included. We asked the 10 companies that provide full coverage to category-3 and -4 owners to estimate by what year these owners could obtain private tank insurance. Subsequently, we followed up with seven of these companies to obtain specific additional information, including minimum and/or average deductibles and premiums for owners with low, average, and high risk.

This section presents information about the companies' coverage, their views on owners' ability to obtain private insurance, as well as a summary of seven companies' minimum and/or average deductibles and premiums. We did not verify the accuracy of the information the insurance representatives provided to us.

EXTENT OF POLLUTION LIABILITY INSURERS' COVERAGE

EPA's regulations require that category-3 and -4 owners who are petroleum marketers obtain insurance (or some other form of coverage) to pay damages of \$1 million per occurrence and \$1 million annually in the aggregate. For non-marketers handling a monthly volume of 10,000 gallons or less of petroleum, EPA regulations require coverage of \$500,000 per occurrence and \$1 million of annual aggregate coverage.

As table 3.1 reflects, of the 14 companies surveyed, 10 companies provide full coverage to category-3 and -4 owners; that is, the companies underwrite pollution liability insurance policies for corrective action and third-party liability costs resulting from leaks in underground petroleum storage tanks. Seven of these companies provide such coverage to non-marketers as well. Of the 10 providers of full coverage, only 1, Petromark, provided coverage in all 50 states plus the District of Columbia and U.S. territories (except Puerto Rico). Also, Oilmen's Insurance Company has a per

¹During the course of our survey of insurance company representatives, we learned that the James Group, Petromark, and R.L. Jarrett had temporarily suspended their operations. As noted earlier, after our survey, Petromark ceased operations.

occurrence limit of \$500,000 for category-3 and -4 owners, which does not meet EPA's per occurrence limit of \$1 million. This company also provides pollution liability insurance but only to purchasers of other policies from this company.

In addition to the 10 full-coverage providers, four other companies offer limited coverage to category-3 and/or -4 firms, including non-marketers. Universal Underwriters provides full coverage to category-4 owners and non-marketers who hold other policies with this company. Evanston provides full coverage up to \$500,000 to non-marketers only. And, two other companies write only third-party liability insurance. Of these, Liberty Mutual provides such coverage to category-3 and -4 owners, including non-marketers, while Travelers provides third-party liability insurance only to category-3 and -4 owners who have other policies with this company. According to the representative from Travelers, the company does not consider itself a pollution liability insurer.

Of all 14 insurance companies listed on table 3.1, Petromark was the only risk retention group, an insurance company formed by businesses with similar risks to provide insurance coverage for its members. Petromark's membership fee was equal to the owners' first-year premium.

Of the 10 full-coverage insurers of category-3 and -4 owners, 3 insurers issue more than 90 percent of the approximately 3,400 policies issued by the 10 insurers. The two largest providers, Federated and Petromark, have issued the greatest number of policies to category-3 and -4 tank owners, issuing 1,800 and 1,000 policies, respectively. As noted previously, Petromark was dissolved and Lloyds of London now offers coverage to most of Petromark's insureds. Additionally, Federated announced in February 1990 that it would no longer provide coverage to owners in 14 states with trust funds. A third insurer, Environmental Impairment, has issued 320 policies to these smaller firms.

Table 3.1
Insurance Companies Underwriting Policies
for Tank Owners

<u>Companies offering insurance</u>	<u>Full coverage provided</u>	<u>Owners covered</u>		
		<u>Category 3</u>	<u>4</u>	<u>Non-marketers</u>
Agricultural Excess and Surplus Insurance Company	Yes	Yes	Yes	Yes
American International Group (AIG) ^a	Yes	Yes	Yes	Yes
Environmental Impairment Purchasing Group	Yes	Yes	Yes	Yes
Evanston Insurance Company	Yes	No	No	Yes
Federated Mutual Insurance Company	Yes	Yes	Yes	No
Front Royal Group, Inc.	Yes	Yes	Yes	Yes
General Star Management Co.	Yes	Yes	Yes	No
James Group Service, Inc. ^e	Yes	Yes	Yes	Yes
Liberty Mutual Insurance Co.	No ^f	Yes	Yes	Yes
Oilmen's Insurance Company, Inc. ^g	Yes	Yes	Yes	No
Petroleum Marketers Mutual Insurance Co. (Petromark) ^h	Yes	Yes	Yes	Yes
R.L. Jarrett ^j	Yes	Yes	Yes	Yes

<u>Number of policies issued</u>			<u>Number of quotes given</u>		
<u>Category</u>		<u>Non- marketers</u>	<u>Category</u>		<u>Non- marketers</u>
<u>3</u>	<u>4</u>		<u>3</u>	<u>4</u>	
1	1	0	30	25	0
b	200	200	1,000s	1,000s	1,000s
200	120	45	700	1,000	200
NA ^c	NA	0	NA	NA	25
d	d	NA	b	b	NA
0	0	0	1	2	b
0	<10	NA	0	10	NA
0	0	0	100s daily	several	several
b	b	b	b	b	b
30	20	NA	60	40	NA
800	200	10	2,400	i	i
0	0	0	20	5	5

(continued)

<u>Companies offering insurance</u>	<u>Full coverage provided</u>	<u>Owners covered</u>		
		<u>Category</u>		<u>Non-</u>
		<u>3</u>	<u>4</u>	<u>marketers</u>
Travelers Insurance Co. ^g	No ^f	Yes	Yes	No
Universal Underwriters Insurance Co. ^g	Yes	No	Yes	Yes

^aAIG uses Sedgwick James, formerly Fred S. James of Pennsylvania, as its insurance broker and National Union Fire Insurance Company as its insurance carrier. The data include all policies written by AIG's insurance carrier and those issued by Sedgwick James.

^bInsurer did not know the answer or was not willing to estimate.

^cNot applicable because insurer does not cover owners of this category. Subsequent uses of "NA" in this table indicate the same.

^dThe number of policies issued totals 1,800 for category-3 and -4 owners.

^eAccording to the James Group Service, Inc. representative, on March 19, 1990, the company changed its name to Sedgwick James Group Service, Inc. Also, on March 25, 1990, the company suspended its provision of pollution liability insurance because one of its underwriters closed.

^fCompany only provides third-party liability insurance.

^gCompany only provides tank insurance to existing clients.

^hDue to financial difficulties, on April 10, 1990, Petromark announced that it had dissolved its Board of Directors and that Lloyds of London would provide coverage to most of Petromark's insureds.

ⁱThe number of quotes given totals 300 for category-4 owners and non-marketers.

^jIn our discussion with the R.L. Jarrett representative, we learned that the company had temporarily suspended its operations.

<u>Number of policies issued</u>			<u>Number of quotes given</u>		
<u>Category</u>		<u>Non- marketers</u>	<u>Category</u>		<u>Non- marketers</u>
<u>3</u>	<u>4</u>		<u>3</u>	<u>4</u>	
b	b	NA	few	few	NA
NA	0	3	b	b	b

Tables 3.2 and 3.3 present the views of full-coverage insurers on the pollution liability insurance market, specifically, their views on category-3 and -4 tank owners' ability to obtain insurance.

As table 3.2 reflects, three firms believe that 75 percent of category-3 owners can obtain insurance coverage now, and three said that this percentage of category-4 owners won't be able to obtain coverage for several years. Four firms, including the two largest insurers, could not estimate when three-quarters of the category-3 owners will be able to be insured.

Table 3.2
Insurance Companies' Estimates of When
Category-3 Owners Will Obtain Insurance

Given your knowledge of the insurance market, by what year will 75 percent of category-3 owners be able to obtain coverage to meet EPA's requirements?

<u>Company and their responses</u>	<u>Year owners can obtain coverage</u>
<u>Those stating the current year or earlier</u>	
Environmental Impairment	
Front Royal	
General Star	
<u>Those stating a year in the future</u>	
Agricultural Excess	1995
James Group	1993
Oilmen's	1995

Note: Four companies, AIG, Federated, Petromark, and R.L. Jarrett, could not estimate when the owners will be able to obtain coverage.

As table 3.3 shows, two firms believe that 75 percent of category-4 owners are able to obtain coverage now, and four firms believe that most category-4 owners will not be able to obtain private tank insurance until sometime in 1991 to 1995. Two of the largest insurers could not estimate when three-quarters of the category-4 owners will be able to have insurance.

Table 3.3
Insurance Companies' Estimates of When
Category-4 Owners Will Obtain Insurance

Given your knowledge of the insurance market, by what year will 75 percent of category-4 owners be able to obtain coverage to meet EPA's requirements?

Company and their responses

Year owners can obtain coverage

Those stating the current year or earlier

Environmental Impairment
 General Star

Those stating a year in the future

Agricultural Excess	1995
Front Royal	1991
James Group	1993
Oilmen's	1995

Note: Four companies, AIG, Federated, Petromark, and R.L. Jarrett, could not provide an estimate.

INSURANCE COMPANIES' RISK
ASSESSMENT FACTORS AND
INSURANCE COSTS

To (1) determine what factors insurance companies use to assess an applicant's risk level and (2) obtain estimates of the minimum and average deductibles and premiums that approximately correspond to each level of risk (low, average, and high), we followed up with the companies that offer full coverage to category-3 and -4 owners. We were unable to reach 2 of the 10 companies, including Federated, one of the largest insurers. One company, R.L. Jarrett, was temporarily closed at the time of our review. Because R.L. Jarrett may not renew or issue policies in the future, we did not obtain this company's responses. Thus, we include responses to follow-up questions for seven companies.² The seven company representatives we spoke with stressed the variability of owners' risk levels and premium rates from policy to policy and thus cautioned us about the use of the estimates they provided.

²The seven insurance providers are AIG, Environmental Impairment, Front Royal, General Star, James Group, Oilmen's, and Petromark.

Concerning the first issue, we asked insurance company representatives what factors they consider in assessing an owner's risk level in order to determine a deductible and/or premium. Typically, insurance company representatives responded that they assess each owner's application to arrive at an individualized insurance rate. They said that a combination of factors such as tank construction, and, in some cases, the age of the tanks coupled with the quality of tank management practices leads to the determination of the owner's risk level and accompanying insurance rate.

According to the six insurance company representatives who responded to our follow-up questions about risk factors (the seventh company official, from James Group Service, Inc., did not answer these follow-up questions), owners with low risk tend to have fiberglass or cathodically protected³ steel tanks or double-walled fiberglass tanks that are less than 10 or 12 years old. Owners with average risk tend to have similarly constructed tanks that are 10 to 15 years old. According to six company representatives, owners with high risk would typically have bare steel tanks older than 10 to 12 years old. Of these six, three said that bare steel tanks of any age would be a sufficient reason to consider the owner to be of high risk.

Table 3.4 presents the range of responses we received to questions about minimum and average deductibles and premiums for pollution liability insurance policies for underground petroleum storage tank owners. Generally, it appears that insurance companies do not vary minimum deductibles and minimum policy premiums with owners' risk. Of the seven insurance companies that provided us with information on their minimum deductibles, Petromark was the only company whose minimum deductibles vary by risk group. Of the seven companies responding to our follow-up questions, one company did not provide estimates for either average site or average tank premiums, three companies provided estimates for average site premiums only, and the other three companies provided estimates for average tank premiums only. While minimum deductibles, minimum policy premiums, and average deductibles generally do not vary by owners' risk levels, the average site and tank premiums increase with risk.

Finally, when asked if premiums would decrease if EPA would lower its coverage limits, three of the seven companies said "yes," and four said "no." Four of the seven representatives stated that most of the risk falls below \$500,000, with one company

³Such a practice protects tanks from corrosion caused by a naturally occurring electric current by instituting techniques that reverse the direction of the current.

representative explaining that the risk is greatest in the first \$100,000 of coverage and next most substantial in the next \$250,000 of coverage. Based on the responses from company representatives, it appears that EPA would have to lower its limits to below \$500,000 or even to \$350,000 or less in order for companies to lower insureds' premiums.

Table 3.4
Deductible and Premium Range Estimates for Underground Petroleum
Storage Tank Policies by Insured's Risk Level

Dollars in Thousands^a

	Category-3 and -4 owners' deductibles and premiums, by risk level ^b		
	<u>Low</u>	<u>Average</u>	<u>High</u>
Minimum Deductible	\$0 to \$25	\$0 to \$25	\$0 to \$25
Minimum Policy Premium	\$1.3c to \$5	\$1.3c to \$5	\$1.3c to \$5
Average Deductible ^d	\$10 to \$25	\$10 to \$25	\$10 to \$25
Average Site Premium ^e			
Category 3	\$1.6 to \$6.4	\$2.5 to \$8.6	\$3.2 to \$19
Category 4	\$2.1 to \$6.4	\$2.4 to \$8.6	\$3.2 to \$19
Average Tank Premium ^e	\$.8 to \$1.2	\$1.3 ^f	\$1.6

^aFigures are rounded.

^bOne respondent places insureds into one of two risk groups, either good or high risk. We have included the company's good risk responses in the low risk column.

^cThe minimum policy premium of \$1,300 can be discounted depending on a state's trust fund coverage.

^dFour companies provided an estimate.

^eThree companies provided an estimate.

^fOnly one company provided an estimate.

OBJECTIVES, SCOPE, AND METHODOLOGY

We conducted two telephone surveys between February 12 and March 28, 1990, to obtain the views of state underground storage tank program officials and insurance company representatives (from companies that offer pollution liability insurance coverage) regarding the ability of category-3 and -4 tank owners to meet EPA's financial responsibility requirements by the 1990 deadlines. On February 26, 1990, the Subcommittee staff requested that we ask insurance companies a few follow-up questions about the minimum deductibles and premiums for owners at different risk levels, which are determined by such factors as the construction and age of tanks. As a result, we followed up with insurance companies that provide pollution liability insurance to category-3 and -4 owners.

In conducting our telephone survey of state program officials, we telephoned officials in all 50 states and the District of Columbia. We obtained information from officials in 45 states and the District of Columbia. The remaining five officials were unavailable or did not return our phone calls during the time of our survey.

At the beginning of our review, we identified 15 insurance companies that were offering pollution liability insurance to underground storage tank owners in category 3 and/or 4, including non-marketers. Of these 15 companies, 11 provide full coverage to category-3 and -4 owners (i.e., they will pay to clean up leaks from tanks and will compensate victims for damage to property or personal damages caused by leaks) and 4 provide limited coverage to these firms. In the fact sheet, we have excluded information on 1 of the 11 full-coverage providers because it did not respond to our survey in time to be included in the survey tabulations. To address the Subcommittee staff's additional request, we followed up with the 10 insurance companies that provide full coverage to category-3 and -4 owners, and were only able to obtain specific additional information from 7 of the 10. Of these seven companies, only six responded to our follow-up questions about risk factors used to determine an insured's risk level and accompanying insurance rate. We did not verify if the coverage provided by these companies meets EPA's financial responsibility requirements.

Our telephone survey of state officials included questions regarding the availability of private tank insurance, the ability of owners to obtain insurance and comply with the financial responsibility requirements by the 1990 compliance dates, state financial assistance programs, lending practices for tank owners, and the status of the trust fund plans in states that have trust funds but have not submitted fund plans to EPA and in states that do not have trust funds.

The topics of the telephone survey of insurance company representatives included the types and extent of insurance coverage, deductibles and premiums based on the insureds' risk levels, and insurers' views on the availability of tank insurance. We did not verify the information provided to us by either the state officials or the insurers' representatives.

As agreed with the requesters, we did not obtain official agency comments on this fact sheet.

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